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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,193	12/04/2003	Waymon B. Griner JR.	11529-03265	7283

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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,193

Applicant(s)

GRINER, WAYMON B.

Examiner

Ula C. Ruddock

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/19/2003</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-19, drawn to a composite, classified in class 442, subclass 32.
 - II. Claims 20 and 21, drawn to a method for reinforcing wallboard, classified in class 156, subclass 60.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made by another method, i.e. by coextruding the first and second coated scrim.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Daniel Crilly on April 19, 2005, a provisional election was made with traverse to prosecute the invention of Group I, claims 1-19. Affirmation of this election must be made by applicant in replying to this Office action. Claims 20 and 21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 7, 9-14, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Isley, Jr. et al. (US 5,649,398) in view of Buscher et al. (US 6,794,316). Isley, Jr. et al. disclose high strength fabric reinforced walls. The composite reinforcement layer is made up of three fabric layers (col 4, ln 24-25). The high strength warp yarns can be glass and the high elongation fill yarns include polyester and nylon (col 3, ln 4-10). The reinforced wall includes a plurality of fabric fasteners or anchors (col 4, ln 44-46). Each fabric layer must be impregnated with resin and suitable resins include acrylic (col 5, ln 63-67 to col 6, ln 1-6). Isley, Jr. disclose the claimed invention except for the specific teaching that the reinforcement layers are coated scrim.

Buscher et al. disclose a two scrim laminate used in matting products and roofing (col 1, ln 19-26). The two scrim produce a dimensionally stable laminate (col 3, ln 10-12). Both scrim are coated and the second side of the first coated scrim is permanently bonded to the first side of the second coated scrim (col 3, ln 14-16). The scrim can be made of polyester and polypropylene (col 5, ln 11-13) and the first and second scrim can contain different fibers (Examples 6 and 7). The preferred scrim coatings can be polyurethanes or acrylics (col 5, ln 58-59 and col 6, ln 16-19). The upper surface of the first coated scrim can be coated with an additional secondary coating to provide for chemical resistance (col 5, ln 65-67). The additional coatings include acrylics (col 6, ln

8-10), which the Examiner is equating to Applicant's finishing layer. It would have been obvious to have used Buscher's two coated scrim laminate with the secondary coating as the reinforcement layer in Isley, Jr. et al., motivated by the desire to create a reinforcement fabric having increased lamination strength and durability.

With regard to claims 9 and 18, it would have been obvious to have made one of the scrims in Buscher et al. have a greater width than the other scrim, motivated by the desire to create a laminate that has increased dimensional stability.

7. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Isley, Jr. et al. (US 5,649,398) and Buscher et al. (US 6,794,316) as applied to claim 1 above, and further in view of Shannon (US 3,579,409). Isley, Jr. and Buscher et al. disclosed the claimed invention except for the specific teaching that the fastener is a staple.

Shannon (US 3,579,409) disclose high strength plastic coated fiber yarn fabric in an open-mesh relationship used as reinforcement in plasterboard wall (abstract and col 1, ln 40). Staples are used as fasteners (col 1, ln 65-68). It would have been obvious to have used the staples of Shannon as the fasteners in Isley, Jr. et al. and Buscher et al., motivated by the desire to create a reinforcement material that has increased strength.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Isley, Jr. et al. (US 5,649,398) in view of Buscher et al. (US 6,794,316) as applied to claim 1 above, and further in view of Cherry (US 2002/0187693). Isley, Jr. and Buscher et al. disclosed the claimed invention except for the specific teaching that at least one of the first and second scrims comprises fiberglass.

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Cherry (US 2002/0187693) disclose a roofing membrane that increased wind resistance by having at least two sheets of scrim material between an upper layer and a lower layer (abstract). The scrim material is typically made of polyester or fiberglass [0023]. It would have been obvious to have used Cherry's teaching of a fiberglass scrim in the reinforcing layers of Isley, Jr. and Buscher et al., motivated by the desire to create a reinforcing material that is stronger and has increased flame resistance.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UCR *Ula*

Ula Ruddock
Ula C. Ruddock
Primary Examiner
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